

REMARKS

This amendment responds to the Office Action dated May 17, 2006. Applicants amend specification and claims 1, 2, 4-6, 8, 10, 12-13, 16, 18-19, and 21-23 to remove informalities. Applicants appreciate the interview on June 7, 2006. Claims 1-27 are presented for examination. Applicants request reexamination and reconsideration of the application.

Applicants add the term "cache" in paragraph 0064 of the specification to state the copy of block D₁ in the non-volatile cache lines 280 permits the secondary data storage system to address failure. Figure 7 supports this amendment.

On pages 2-5 of the Office action, the Examiner rejects claim 1-27 under 35 USC 103(a) as being unpatentable over US Patent No. 6,173,377 B1 to Yanai et al. (Yanai) in view of US Patent No. 6,772,178 B2 to Mandal et al. (Mandal).

Yanai fails to teach or suggest method claim 1, because:

1) Contrary to Examiner's statement, col. 47, line 25 through col. 48, line 67 of Yanai fail to disclose assigning a data set ID to each write command as recited in claim 1. Figure 4 illustrates our data set ID is assigned to each write command to ensure all the write commands of a given data set are written (or not written) at the secondary data storage system for data consistency between the primary and secondary storage (see our paragraphs 0039 - 0044). This is an advantage not suggested in Yanai.

2) Contrary to Examiner's statement, col. 5, lines 36-50 of Yanai fail to disclose transmitting each write command before the application has sent all of the write commands of the data set to the primary host as recited in claim 1. In col. 5, lines 36-50, Yanai describes the data storage system containing the primary (R1) volume bundles all write commands in a chain into a single write command for transmission over a link to the data storage system containing the secondary (R2) volume. Yanai's data storage system determines when it has received the last channel command in the chain and

1 once the last channel command is received, it transmits the bundle of write data for the
2 chain over the link to the data storage system containing the secondary (R2) volume.

3 3) Yanai fails to disclose assigning the data set ID to a sync command in col.
4 47, line 25 through col. 48, line 67. See item 1) in the above remarks.

5
6 4) Yanai fails to disclose transmitting the sync command, wherein the write
7 commands and the sync command define a data set in col. 5, lines 36-50. See item 1)
8 in the above remarks.

9 5) Yanai fails to disclose at the secondary host receiving the write commands
10 and sync command out of order in col. 5, lines 36-50 and col. 7, line 63 - col. 8, line 3.

11 Mandal describing data replication using Java fails to teach claim 1 or make up for the
12 deficiencies in Yanai. Thus, claim 1 is patentable over Yanai and Mandal. Claims 2-17.
13 are patentable for their additional limitations and for dependency on allowable claim 1.
14

15 On page 6 of the Office action, the Examiner states claims 18-27 are rejected in the
16 analysis of claims 1-17 and claims 18-27 are rejected on that basis. The Office has not
17 established a prima facie case of obviousness since: (1) claims 1-17 are allowable as
18 described above, (2) claims 1-17 differ from claim 18-27, and (3) the Office has not
19 established how rejecting claims 18-27 can be on the same basis as claims 1-17 given
20 their different subject matters. Thus, this application is condition for allowance.

21 Please call if you have any question, comment, or it will expedite prosecution.
22

23 Respectfully Submitted,

24 Robert Moll

25 Robert Moll

26 Reg. No. 33,741

27 1173 St. Charles Court

28 Los Altos, CA 94024

29 Tel: 650-567-9153

30 Fax: 650-567-9183

Email: rgmoll@patentplanet.com